

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**NEIL GILMOUR, III, TRUSTEE FOR
THE GRANTOR TRUSTS OF VICTORY
PARENT COMPANY, LLC.; ET AL.,**

Plaintiffs,

V.

**AETNA HEALTH INC., AETNA HEALTH
INSURANCE COMPANY, and AETNA
LIFE INSURANCE COMPANY,**

Defendants.

CIVIL ACTION NO. SA-17-CA-510-FB

JUDGMENT

The Court considered the Judgment to be entered in this case. Pursuant to the Order Accepting Report and Recommendation of United States Magistrate Judge and Further Orders of the Court signed this date,

IT IS ORDERED, ADJUDGED and DECREED that Victory's Motion for Leave to File Exhibits Under Seal (docket no. 174) is GRANTED such that Exhibit 1 and Exhibit 2 (attached to the motion for leave) are FILED UNDER SEAL.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Report and Recommendation of the United States Magistrate Judge (docket no. 160) is ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that:

- * Defendants' Opposed Motion to Exclude the Opinions of Plaintiff's Damages Expert, Rodney Sowards (docket no. 103) is GRANTED IN PART in that Rodney Sowards's testimony is unreliable on the question of defendants' liability on plaintiffs' remaining claims. Defendants' challenge to Rodney Sowards's testimony as to damages is DISMISSED AS MOOT because the Court accepts the recommendation to award defendants summary judgment.


- * Defendants' Motion for Sanctions (contained within docket no. 123) is DENIED.
- * Defendants' Motion for Summary Judgment (contained within docket no. 94) is GRANTED on the basis that plaintiffs failed to produce sufficient evidence to raise a genuine dispute of material fact on their remaining claims (Counts 1 and 6).

IT IS FURTHER ORDERED, ADJUDGED and DECREED that, having granted defendants summary judgment on the only pending federal claims in this suit, the Court declines to exercise supplemental jurisdiction over defendants' state law counterclaims and therefore Defendants' Opposed Motion to Admit Former Trial Testimony of Non-Party Witness Andrew Hillman and/or for an Adverse Inference (docket no. 98) and Victory's Motion for Partial Summary Judgment (docket no. 100) and are DISMISSED WITHOUT PREJUDICE.

IT IS FINALLY ORDERED, ADJUDGED and DECREED that motions pending with the Court, if any, are Dismissed as Moot and this case is CLOSED.

It is so ORDERED.

SIGNED this 26th day of August.



FRED BIERY
UNITED STATES DISTRICT JUDGE